


COUNTY OF YORK

MEMORANDUM

DATE: September 7, 2006 (BOS Mtg. 9/19/06)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Old Williamsburg-Yorktown Road (Route 1122)/Old York Road (Route 640) and Water Country Parkway (Route 640) - Proposed Abandonment of Roads

Issue

Premier Properties, the developer of the proposed “Marquis” retail center, has requested that the County abandon the portions of Old Williamsburg-Yorktown Road (Route 1122) and Old York Road/Water Country Parkway (Route 640) that exist within the bounds of the project site. Except for the Water Country USA entrance drive, the road segments within the subject sections of right-of-way have not been maintained for years and are not used by the public.

This action can be considered in accordance with the terms of Section 33.1-151 of the Code of Virginia. Section 33.1-151 provides that the Board of Supervisors may abandon a road, after public notice, when it determines that no public necessity exists. Notice of the intention to abandon the road was authorized by a formal resolution of the Board adopted at the August 1st meeting. Subsequently, notices of the Board’s intention and of a September 19th public hearing on the matter were published in legal ads and provided to the adjacent property owners and the Commissioner of the Virginia Department of Transportation, all as required by the statute. By statute, the Board can take formal action on the request anytime within four (4) months after the public hearing that has been advertised for the September 19th meeting.

Considerations

1. As the Board is aware, in conjunction with the proposed Marquis development, Water Country USA is planning to relocate its entrance further east along Route 199. The existing Water Country Parkway segment that serves as Water Country’s entrance is proposed to be incorporated into the access drive serving The Marquis retail center. Water Country would maintain an employee and emergency access connection to the Marquis entrance road with those rights to be guaranteed through recorded joint access easements. While initially envisioned as a publicly dedicated road, the Marquis entrance road is now proposed to be owned and maintained by the developer (Premier Properties), although still designed and constructed to meet VDOT standards and specifications. Under the above-described development scenario there appears to be no public necessity to maintain these rights-of-way as public roads.

2. Route 1122 (Old Williamsburg Road) is a prescriptive easement, which means that upon formal abandonment title to the right-of-way will revert to the underlying property owner. The Route 640 (Water Country Parkway) right-of-way is owned by VDOT (Commonwealth of Virginia) and conveyance of title to that area will be subject to an appraisal and formal determination of value by VDOT. Premier Properties is aware of the fact that compensation to the Commonwealth will be required in order to secure title to the Route 640 right-of-way.
3. Both Busch Properties and Busch Entertainment have provided comments on the proposed abandonments. Both have expressed support for abandonment of Route 640 beyond (i.e., south of) the existing entrance into Water Country (see attached letters dated August 1 and August 2, 2006). Also, both support abandonment of the segment of Route 1122 that is located beyond (i.e., south of) the rear property line of the 3-acre parcel already acquired by Marquis at Williamsburg, LLC. Note that the Route 640 and 1122 rights-of-way overlap in some areas.

Follow-up discussions with Busch representatives indicate that both would be willing to consider supporting abandonment of the remaining segments of both rights-of-way (the hatched areas on the plat attached to the letters) after the following occurs:

- Premier Properties closes on the Marquis land acquisition;
 - VDOT approves the Limited Access break necessary for the re-located Water Country entrance; and,
 - Premier Properties provides appropriate easements and driveway connections to serve the proposed employee/emergency access to Water Country.
4. The Virginia Department of Transportation has provided its comments by letter dated August 30, 2006. VDOT indicates no objection to abandonment of Route 1122 (in its entirety) and the segment of Route 640 beyond the existing Water Country entrance. VDOT notes that it considers abandonment of the segment of Route 640 currently serving Water Country to be premature (since the new Water Country access break has not yet been approved by VDOT). However, VDOT indicates that a conditional order of abandonment could be considered appropriate if it does not become operational until:
 - a) The Commonwealth Transportation Board authorizes the Limited Access break for the re-located Water Country entrance and the entrance is constructed and opened to the public; and
 - b) Water Country either:
 - i. Concurs with the abandonment of Route 640 from Rt 199 to its current entrance; or

- ii. Route 640 is replaced with a public road that is accepted by VDOT.

Recommendation

Development of the proposed Marquis retail center is dependent on eliminating all, or at least major parts of these unused rights-of-way, and that was anticipated at the time of project approval. In the interest of moving the project forward, I recommend that the Board adopt the attached resolution to approve the abandonment of the portion of Route 640 beyond the existing Water Country entrance and the portion of Route 1122 beyond the southern property line of the Marquis at Williamsburg, LLC parcel. This action can be accomplished by the adoption of proposed Resolution R06-119.

Within the next several months, it is anticipated that Premier Properties will be closing on the land acquisition and decisions should be forthcoming from VDOT and the CTB on the limited access break and Water Country entrance location. Therefore, I recommend that action on the two segments of right-of-way closest to Route 199 be deferred to the end of the 4-month action period prescribed by the State Code, or sooner if the VDOT and Busch Properties/Entertainment contingencies are resolved.

Carter/3337

Attachments

- Vicinity Map
- Letter dated August 1, 2006 from Richard Van Slyke, Busch Properties of Florida (w/ attached plat)
- Letter dated August 2, 2006 from Steven Frein, Busch Entertainment Corporation
- Letter from Kenneth Smith, VDOT Asset Management Division, dated August 30, 2006
- Proposed Resolution R06-119